IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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Applicant(s): Johannes Hendrikus Maria Lemmers   Group Art Unit: 2421

Serial No. 10/565,816   Confirmation No. 7555

Filed: January 24, 2006   Examiner: Hance, Robert J.

For: HANDLING FEATURE AVAILABILITY IN A BROADCAST

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Commissioner for Patents
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<u>BRIEF ON APPEAL</u>

Sir/Madam:

        This brief is in furtherance of Applicant's Notice of Appeal filed on

20   January 30, 2009, appealing the decision of the Examiner dated October 30, 2008

finally rejecting claims 1-9 and 12.

I.   Real Party in Interest

The real party in interest in this appeal is NXP B.V., High Tech Campus 60, 5656 AG Eindhoven, The Netherlands.

II.   Related Appeals and Interferences

There are currently no related appeals or interference proceedings in progress that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the present Appeal.

III.   Status of Claims

Claims 1-12 were originally filed on January 24, 2006. In a preliminary amendment filed on January 24, 2006, claims 10 and 11 were canceled. In response to the Office Action of April 10, 2008, claim 1-4, 8 and 9 were amended, and new claim 12 was added. Claims 1-9 and 12 stand finally rejected and form the subject matter of the present appeal.

Claims 1-9 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over "Digital Television Application Manager," 2001 IEEE International Conference on Multimedia and Expo, pages 685-688 ("Peng et al.") in view of U.S. Patent No. 7,216,170 ("Ludvig et al."). Claim 12 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Peng et al. and Ludvig et al. and further in view of U.S. Pat. App. Pub. No. 2003/0217369 A1 ("Heredia").

This Appeal is made with regard to pending claims 1-9 and 12.

IV.   Status of Amendments

No amendments were filed subsequent to final rejection.

V.   Summary of Claimed Subject Matter

The claimed invention includes a method, for a receiver adapted for receiving broadcasted signal from a broadcaster, of handling the execution of a first independent feature, a method, for a broadcaster adapted to transmit a broadcast signal, of broadcasting a first independent feature to be executed by a receiver and a receiver adapted for receiving broadcasted signal from a broadcaster (See lines 1-7 on page 1 of the Specification).

According to an embodiment, as recited in the independent claim 1, a method, for a receiver (105, 107, 109, 111, 206, 306, 405, 706, 806) adapted for receiving broadcasted signal (103, 204, 304, 704, 804) from a broadcaster (101), of handling the execution of a first independent feature (A, B, C, D, FW), where at least a part of feature data, needed to execute the first independent feature, is comprised in the broadcasted signal as data relating to a first Xlet, wherein the data relating to the first Xlet further comprise feature data needed to execute at least a second independent feature (A, B, C, D), and wherein the feature data are broadcasted as data carousels (See Fig. 1 and lines 5-12 on page 8 of the Specification), the method comprising the steps of receiving instructions identifying the first feature, wherein the instructions further comprise an identification that the identified first feature is to be executed (See lines 13-24 on page 8 of the Specification), loading, from at least one of the data carousels, the feature data related to the first feature into memory of the receiver (See Fig. 2 and lines 11-19 on page 10 of the Specification), the feature data related to the first feature and the second feature being part of the first Xlet (See lines 8-9 on page 8 of the Specification), and executing the identified feature (See Fig. 5 and lines 5-16 on page 11 of the Specification).

According to another embodiment, as recited in the independent claim 8, a method, for a broadcaster (101, 200, 300, 403, 700, 800) adapted to transmit a broadcast signal (103, 204, 304, 704, 804), of broadcasting a first independent feature (A, B, C, D) to be executed by a receiver (105, 107, 109, 111, 206, 306, 405, 706, 806), where at least a part of the feature data needed to execute the first

independent feature is comprised in the broadcaster signal as data relating to a first Xlet, wherein the data relating to the first Xlet further comprise feature data needed to execute at least a second independent feature (A, B, C, D), and wherein the feature data are broadcasted as data carousels, the method comprising the step

5   of broadcasting feature data needed to execute a third independent feature (FW), where the third independent feature enables the receiver to handle the execution of the first independent feature (See Fig. 1 and lines 5-12 on page 8 of the Specification) by receiving instructions identifying the first feature, wherein the instructions further comprise an identification that the identified first feature is to

10   be executed (See lines 13-24 on page 8 of the Specification), loading, from at least one of the data carousels, the feature data related to the first feature, into memory of the receiver (See Fig. 2 and lines 11-19 on page 10 of the Specification), the feature data related to the first feature, the second feature and the third feature being part of the first Xlet (See lines 8-9 on page 8 of the Specification), and

15   executing the identified feature (See Fig. 5 and lines 5-16 on page 11 of the Specification).

       According to another embodiment, as recited in the independent claim 9, a receiver (105, 107, 109, 111, 206, 306, 405, 706, 806) adapted for receiving

20   broadcasted signal (103, 204, 304, 704, 804) from a broadcaster (101, 200, 300, 403, 700, 800), where the receiver is adapted for handling the execution of a first independent feature, where at least a part of the feature data needed to execute the first independent feature is comprised in the broadcaster signal as data relating to a first Xlet, wherein the data relating to the first Xlet further comprise feature data

25   needed to execute at least a second independent feature, and wherein the feature data are broadcasted as data carousels (See Fig. 1 and lines 5-12 on page 8 of the Specification), the receiver comprising means (401) for receiving instructions identifying the first feature, wherein the instructions further comprise an identification that the identified first feature is to be executed (See lines 13-24 on

30   page 8 of the Specification), means (401) for loading, from at least one of the data carousels, the feature data related to the first feature, into memory of the receiver (See Fig. 2 and lines 11-19 on page 10 of the Specification), the feature data related to the first feature and the second feature being part of the first Xlet (See

lines 8-9 on page 8 of the Specification), and means (401) for executing the identified feature (See Fig. 5 and lines 5-16 on page 11 of the Specification).

VI. Grounds of Rejection to be Reviewed on Appeal

Whether claims 1-9 are unpatentable under 35 U.S.C. §103(a) over Peng et al. in view of Ludvig et al.

Whether claim 12 is unpatentable under 35 U.S.C. §103(a) over Peng et al. and Ludvig et al. and further in view of Heredia.

VII. Argument

In the Final Office Action of October 30, 2009, the Examiner rejected claims 1-9 and 12 under 35 U.S.C. §103(a) over Peng et al. in view of Ludvig et al. and/or Heredia. However, the Examiner has failed to establish a *prima facie* case of obviousness for the independent claims 1, 8 and 9, as explained below. Thus, these independent claims 1, 8 and 9 and the dependent claims 2-7 and 12 are not unpatentable under 35 U.S.C. §103(a) over Peng et al. in view of Ludvig et al. and/or Heredia.

A. Rejection of Claims 1, 8 and 9 Under 35 U.S.C. §103(a)

The independent claims 1, 8 and 9 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Peng et al. in view of Ludvig et al. However, the Examiner has failed to establish a *prima facie* case of obviousness for the independent claims 1, 8 and 9. Thus, the independent claims 1, 8 and 9 are not obvious over Peng et al. in view of Ludvig et al.

The independent claim 1 recites in part "*the feature data related to said first feature and said second feature being part of said first Xlet*," which is neither disclosed in Peng et al. nor in Ludvig et al. Thus, even if the teachings of Peng et al. and Ludvig et al. are combined, the resulting combination would not include

such a limitation, and thus, the claimed limitation cannot be derived. Consequently, the Examiner has failed to establish a *prima facie* case of obviousness for the independent claim 1.

5   On page 4 of the Final Office Action, the Examiner admits that Peng et al. fails to disclose "that the feature data related to said first feature and said second feature being part of said first Xlet." However, the Examiner then states that Ludvig et al. discloses "an AIT which contains data necessary to execute a plurality of applets (col. 13 line 66 – col. 14 line 32; Fig. 3: 304)" and that "[i]n

10   the combined system of Peng and Ludvig, the AIT (i.e. feature data related to said first feature and said second feature – Ludvig col. 13 line 66 – col. 14 line 32) is a part of the first Xlet (Peng Section 1 Paragraph 6 – the AIT is necessary for the first Xlet to be run, therefore it is a part of the first Xlet)."

15   The cited reference of Ludvig et al. discloses an application information table (AIT) that includes transport protocol descriptor information 320 and other application specific data 322, as illustrated in Fig. 3 and described in column 11, lines 18-20. However, the cited reference of Ludvig et al. fails to disclose that the AIT (or any part of the AIT, such as the transport protocol descriptor information

20   320 and the other application specific data 322) is part of an Xlet. In fact, there is no mention of any Xlet or applets in the cited reference of Ludvig et al. Thus, the cited reference of Ludvig et al. also fails to teach the limitation of "*the feature data related to said first feature and said second feature being part of said first Xlet*," as recited in the independent claim 1. Thus, the Examiner has failed to

25   establish a *prima facie* case of obviousness for the independent claim 1 using the cited references of Peng et al. and Ludvig et al.

Applicant notes herein that the Examiner appears to assert that since the AIT is "necessary" to run an Xlet, as disclosed in Peng et al., the AIT is part of the

30   Xlet. While it may be true that the AIT is needed to run the Xlet, this does not mean that the AIT is part of the Xlet. Using this logic, every program that is needed to run an Xlet in a computer environment would be part of the Xlet, which would be unreasonable. Nowhere in the cited reference of Peng et al. does it state

or imply that the AIT is part of the Xlet. Thus, the basis for the Examiner's obviousness argument is in error, which further supports the conclusion that the Examiner has failed to establish a *prima facie* case of obviousness for the independent claim 1 using the cited references of Peng et al. and Ludvig et al.

The above remarks are also applicable to the independent claims 8 and 9, which include limitations similar to those of the independent claim 1. As such, the Examiner has also failed to establish a *prima facie* case of obviousness for the independent claims 8 and 9 using the cited references of Peng et al. and Ludvig et al.

B. Rejection of Dependent Claims 2-7 and 12 Under 35 U.S.C. §103(a)

Each of the dependent claims 2-7 and 12 depends on one of the independent claims 1, 8 and 9. As such, these dependent claims include all the limitations of their respective base claims. Thus, these dependent claims are patentable for at least the same reasons as their respective base claims.

SUMMARY

The Examiner has failed to establish a *prima facie* case of obviousness for the independent claim 1 using the cited references of Peng et al. and Ludvig et al. since neither of these references disclose the claimed limitation of "*the feature data related to said first feature and said second feature being part of said first Xlet.*" The Examiner has similarly failed to establish a *prima facie* case of obviousness for the independent claims 8 and 9 using the cited references of Peng et al. and Ludvig et al. The dependent claims 2-7 and 12 are patentable for at least the same reasons as their respective base claims.

For all the foregoing reasons, it is earnestly and respectfully requested that the Board of Patent Appeals and Interferences reverse the rejections of the

Examiner regarding claims 1-9 and 12, so that this case may be allowed and pass to issue in a timely manner.

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Respectfully submitted,

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Date: March 30, 2009

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VIII. Claims Appendix

1. A method, for a receiver (105, 107, 109, 111) adapted for receiving broadcasted signal (103) from a broadcaster (101), of handling the execution of a first independent feature, where at least a part of feature data (A, B, C, D), needed to execute said first independent feature, is comprised in said broadcasted signal as data relating to a first Xlet, wherein said data relating to said first Xlet further comprise feature data needed to execute at least a second independent feature (A, B, C, D), and wherein said feature data are broadcasted as data carousels, the method comprising the steps of:

- receiving instructions identifying said first feature, wherein the instructions further comprise an identification that the identified first feature is to be executed,

- loading, from at least one of the data carousels, the feature data related to said first feature into memory of said receiver, the feature data related to said first feature and said second feature being part of said first Xlet, and

- executing said identified feature.

2. A method according to claim 1, wherein the step of loading, from at least one of the data carousels, the feature data related to said first feature, into memory of said receiver comprises the step of:

- mounting the data carousel comprising the feature data needed to execute said first independent feature, and

- creating a class loader being dedicated to said first feature.

3. A method according to claim 1, wherein the method further comprises the steps of:

- receiving instructions identifying a feature, wherein the instructions further comprise an identification that the identified feature is to be terminated,

- terminating said feature, and

- removing the feature data, related to said identified feature, from memory of said receiver.

4. A method according to claim 3, wherein the step of removing the feature data, related to said identified feature, from memory of said receiver comprises the steps of:

- unmounting the data carousel comprising the feature data needed to execute said first independent feature and removing it from the memory, and

- removing all references to the class loader being dedicated to said first feature and removing it from the memory.

5. A method according to claim 1, wherein the instructions identifying said first independent feature is received from the broadcaster.

6. A method according to claim 1, wherein the instructions identifying said first independent feature is received from a user communicating with the receiver.

7. A method according to claim 6, wherein the receiver presents an identification of at least a part of said broadcasted independent features to said user and the instructions identifying said first independent feature is based on said

presentation.

8. A method, for a broadcaster adapted to transmit a broadcast signal, of broadcasting a first independent feature to be executed by a receiver, where at least a part of the feature data needed to execute said first independent feature is comprised in said broadcaster signal as data relating to a first Xlet, wherein said data relating to said first Xlet further comprise feature data needed to execute at least a second independent feature, and wherein said feature data are broadcasted as data carousels, the method comprising the step of broadcasting feature data needed to execute a third independent feature, where said third independent feature enables the receiver to handle the execution of said first independent feature by:

  - receiving instructions identifying said first feature, wherein the instructions further comprise an identification that the identified first feature is to be executed,
  - loading, from at least one of the data carousels, the feature data related to said first feature, into memory of said receiver, the feature data related to said first feature, said second feature and said third feature being part of said first Xlet, and
  - executing said identified feature.

9. A receiver (105, 107, 109, 111, 206) adapted for receiving broadcasted signal from a broadcaster (101, 200), where the receiver is adapted for handling the execution of a first independent feature, where at least a part of the feature data needed to execute said first independent feature is comprised in said broadcaster

signal as data relating to a first Xlet, wherein said data relating to said first Xlet further comprise feature data needed to execute at least a second independent feature, and wherein said feature data are broadcasted as data carousels, the receiver comprising:

- means (401) for receiving instructions identifying said first feature, wherein the instructions further comprise an identification that the identified first feature is to be executed,

- means (401) for loading, from at least one of the data carousels, the feature data related to said first feature, into memory of said receiver, the feature data related to said first feature and said second feature being part of said first Xlet, and

- means (401) for executing said identified feature.

12. A method according to claim 1, further comprising receiving a feature table that comprises a feature name field, a carousel identification field and a startup class name field.

IX. **Evidence Appendix**

NONE

X.   Related Proceedings Appendix

NONE

Appeal Brief